

March 15, 2013

REGULAR MEETING MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
March 15, 2013

I. CALL TO ORDER THE REGULAR OPEN MEETING AT 10:34 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Anita M. Cummings, Ares G. Dalianis, Garrett P. FitzGerald, and Susan Moylan Krey, Commissioners; Daniel Stralka, Executive Director; Andrew Barris (by telephone), Assistant Executive Director; Roneta Taylor (by telephone) and Colleen Alderman, Illinois Department of Central Management Services; and Beth Duesterhaus (by telephone) and Kathy Barrow (by telephone), Administrative & Regulatory Shared Services Center.

III. APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD FEBRUARY 15, 2013

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER FITZGERALD, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD FEBRUARY 15, 2013.

IV. PUBLIC COMMENT IN ACCORDANCE WITH THE OPEN MEETINGS ACT

At this time, in accordance with the Open Meetings Act and the Rules of the Civil Service Commission, Executive Director Daniel Stralka offered an opportunity for any person to address members of the Commission. Hearing no response, the meeting proceeded to the next agenda item.

March 15, 2013

V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions from Illinois Dept. of Central Management Services

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging.....	129.....	14
Agriculture.....	325.....	16
Arts Council.....	17.....	2
Capitol Development Board.....	47.....	0
Central Management Services.....	1,510.....	110
Children and Family Services.....	2,769.....	51
Civil Service Commission.....	4.....	0
Commerce & Economic Opportunity.....	375.....	69
Commerce Commission.....	77.....	0
Corrections.....	11,056.....	105
Criminal Justice Authority.....	57.....	5
Deaf and Hard of Hearing Comm.....	6.....	1
Developmental Disabilities Council.....	8.....	1
Emergency Management Agency.....	87.....	5
Employment Security.....	1,673.....	31
Environmental Protection Agency.....	811.....	16
Financial & Professional Regulation.....	426.....	43
Gaming Board.....	141.....	6
Guardianship and Advocacy.....	102.....	7
Healthcare and Family Services.....	2,062.....	25
Historic Preservation Agency.....	163.....	15
Human Rights Commission.....	14.....	2
Human Rights Department.....	133.....	8
Human Services.....	11,441.....	78
Illinois Sentencing Policy Advisory Council.....	2.....	2
Insurance.....	236.....	17
Investment Board.....	3.....	2
Juvenile Justice.....	1,124.....	23
Labor.....	87.....	11
Labor Relations Board Educational.....	10.....	2
Labor Relations Board State.....	18.....	2
Law Enforcement Training & Standards Bd.....	15.....	2
Lottery.....	138.....	7
Military Affairs.....	116.....	3
Natural Resources.....	1,082.....	27
Pollution Control Board.....	19.....	2
Prisoner Review Board.....	16.....	0
Property Tax Appeal Board.....	26.....	1
Public Health.....	1,069.....	40
Racing Board.....	3.....	1
Revenue.....	1,629.....	51
State Fire Marshal.....	128.....	12
State Police.....	1,098.....	7
State Police Merit Board.....	4.....	1
State Retirement Systems.....	98.....	2
Transportation.....	2,468.....	0
Veterans' Affairs.....	1,298.....	9
Workers' Compensation Commission.....	130.....	8
TOTALS.....	44,250.....	842

B. Governing Rule – Section 1.142 Jurisdiction B Exemptions

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
 - 1) The amount and scope of principal policy making authority;
 - 2) The amount and scope of principal policy administering authority;
 - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
 - 4) The capability to bind the agency, board or commission to a course of action;
 - 5) The nature of the program for which the position has principal policy responsibility;
 - 6) The placement of the position on the organizational chart of the agency, board or commission;
 - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

* * *

C. Requests for 4d(3) Exemption

Executive Director Daniel Stralka reported:

- As to Item C, this request is for the Assistant Deputy Director for Labor Relations at the Department of Central Management Services, a position that reports to the Deputy Director of Labor Relations who reports to the Director. This position serves as chief negotiator for all collective bargaining agreements where the workforce is primarily based in Cook and the collar counties, approximately 25 total. It will have the independent authority to enter into binding agreements with these unions. The Commission has historically granted exemption requests for agency positions that have such authority, though it is a little different here since the agency is Central Management Services and it already has such a position with statewide responsibilities – the Deputy Director. Considering the paramount role Central Management Services plays in collective bargaining, Staff believes it to be reasonable for the agency to make such a geographical division of responsibilities with the assurance that this position maintains the aforementioned independent authority. For these reasons, Staff recommended approval of this request. Commissioner FitzGerald asked for confirmation that the position is not in a collective bargaining unit due to the nature of its responsibilities. Colleen Alderman, Central Management Services, confirmed that.
- As to Item D, this request is for the Executive Director of the Illinois Torture Inquiry and Relief Commission (ITIRC), a position that reports to the Chairman. This position was previously exempted back in November 2010. However, the ITIRC did not receive funding for FY13 so the position was abolished on July 1, 2012. The ITIRC has subsequently received a grant to recommence operations through December 31, 2013. This position was subsequently reestablished and the agency is seeking to reinstate the exemption. Since there has not been any substantive change to its duties, Staff recommended approval of this request but only through December 31, 2013. Commissioner Dalianis inquired if the position was vacant. Roneta Taylor, Central Management Services-Technical Services, indicated it was. Commissioner Krey inquired if the grant was already in place. Roneta Taylor stated it was. Commissioner Dalianis then inquired as to the work of the ITIRC. As no agency representative was present, Executive Director Stralka provided a brief explanation as to the work of the ITIRC and how it lost its funding for FY13. Commissioner FitzGerald expressed agreement with the need to investigate claims related to its subject matter.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 4-0 TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:

C: Assistant Deputy Director of Labor Relations (Central Management Services)

March 15, 2013

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 4-0 TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION THROUGH DECEMBER 31, 2013:

D: Executive Director (Illinois Torture and Relief Commission)

The following 4d(3) exemption request was granted on March 15, 2013:

C. Illinois Department of Central Management Services

Position Number	40070-37-00-100-10-01
Position Title	Senior Public Service Administrator
Bureau/Division	Labor Relations
Functional Title	Assistant Deputy Director of Labor Relations
Incumbent	Vacant
Supervisor	Deputy Director of Labor Relations who reports to the Director
Location	Cook County

The following 4d(3) exemption request was granted through December 31, 2013 on March 15, 2013:

D. Illinois Torture and Relief Commission

Position Number	40070-50-02-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director's office
Functional Title	Executive Director
Incumbent	Vacant
Supervisor	Chairman of the Illinois Torture and Relief Commission
Location	Cook County

VI. CLASS SPECIFICATIONS

- None submitted.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER CUMMINGS, AND THE MOTION ADOPTED 4-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

March 15, 2013

VII. MOTION TO CLOSE A PORTION OF THE MEETING

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER CUMMINGS, AND BY ROLL CALL VOTE THE MOTION ADOPTED 4-0 TO CLOSE A PORTION OF THE MEETING PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), 2(c)(5), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

CUMMINGS	YES	DALIANIS	YES
FITZGERALD	YES	KREY	YES

March 15, 2013

VIII. RECONVENE THE OPEN MEETING

Upon due and proper notice the regular open meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 10:50 a.m.

PRESENT

Anita M. Cummings, Ares G. Dalianis, Garrett P. FitzGerald, and Susan Moylan Krey, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director (by telephone).

IX. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code; however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Illinois Department of Central Management Services' Consecutive Non-Merit Report.

Agency	1/31/13	2/28/13	2/29/12
Central Management Services	0	0	1
Children and Family Services	3	3	1
Corrections	0	1	0
Employment Security	1	1	2
Healthcare and Family Services	2	2	2
Historic Preservation Agency	0	0	1
Human Services	1	0	1
Insurance	1	1	0
Natural Resources	4	1	15
Public Health	0	1	0
Revenue	5	5	0
State Fire Marshal	0	0	1
State Police Merit Board	1	0	0
State Retirement Systems	0	1	0
Transportation	4	7	5
Veterans' Affairs	2	4	0
Totals	24	27	29

March 15, 2013

X. INTERLOCUTORY APPEAL

DA-21-13

Employee	Christian Stevens	Appeal Date	12/12/12
Agency	Corrections	Decision Date	02/19/13
Type	Discharge	ALJ	Andrew Barris
Issue(s)	Failed to respond to Motion to Dismiss; failed to participate in telephone status conference	Proposal for Decision	Dismiss the appeal for default.

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE FAILURE TO RESPOND TO THE MOTION TO DISMISS AND FAILURE TO PARTICIPATE IN THE TELEPHONE STATUS CONFERENCE RESULTED IN DISMISSAL OF HIS APPEAL FOR DEFAULT.

**CUMMINGS YES DALIANIS YES
FITZGERALD YES KREY YES**

XI. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS

DA-4-13

Employee	Shelebua Binion	Appeal Date	08/08/12
Agency	Human Services	Decision Date	02/27/13
Appeal Type	Discharge	Proposal for Decision	Discharge upheld.
ALJ	Daniel Stralka		

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER CUMMINGS, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION TO UPHOLD THE DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED FEBRUARY 27, 2013.

**CUMMINGS YES DALIANIS YES
FITZGERALD YES KREY YES**

DA-18-13

Employee	Lakenya Harris	Appeal Date	11/20/12
Agency	Human Services	Decision Date	03/01/13
Appeal Type	Discharge	Proposal for Decision	Discharge upheld.
ALJ	Daniel Stralka		

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION TO UPHOLD THE DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED MARCH 1, 2013.

**CUMMINGS YES DALIANIS YES
FITZGERALD YES KREY YES**

XII. RECOGNITION OF CHAIRMAN KOLKER'S NINE YEARS OF SERVICE

ON MOTION OF COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER CUMMINGS (WHICH WAS JOINED IN BY COMMISSIONERS FITZGERALD AND KREY), A RESOLUTION WAS MADE AND UNANIMOUSLY PASSED TO RECOGNIZE CHRISTOPHER KOLKER'S NINE YEARS OF SERVICE TO THE CIVIL SERVICE COMMISSION AS CHAIRMAN. A SUITABLE COPY OF THIS RESOLUTION OF APPRECIATION IS TO BE SIGNED BY ALL COMMISSIONERS, FRAMED, AND PRESENTED TO CHAIRMAN KOLKER.

XIII. STAFF REPORT

Executive Director Daniel Stralka reported:

- The move of the Springfield office has likely been put on hold for fiscal year 2013 as Illinois Department of Central Management Services is recommitting the resources for the build out to a higher priority need related to the concealed carry issue. The current status is that the move has been postponed to fiscal year 2014.
- The Commission submitted its budget request for fiscal year 2014. It is equal to the Commission's fiscal year 2013 adjusted appropriation with the exception of a two per cent salary increase that the Governor's Office of Management and Budget added prior to submission. The Commission's House appropriation hearing is set for the coming Wednesday.

March 15, 2013

- He provided a written response to the Auditor General with regard to the draft report on the LAC141 audit. The response clarified that positions receiving a principal policy exemption need not necessarily be classified as “management” positions as defined in the audit report. Section 4d(3) of the Personnel Code contains the sole criteria for principal policy exemptions.

Assistant Executive Director Barris reported that amendments to Sections 1.10, 1.170 and 1.280 of the Rules of the Civil Service Commission were approved by Joint Committee on Administrative Rules (JCAR), filed with the Secretary of State, and became effective March 15, 2013. In sum, Barris reported that a circuit court determined that Section 1.170, as it was previously written, precluded the Commission from considering prior discipline until after it had determined whether an employee’s discharge was warranted. Assistant Executive Director Barris explained that in some cases the Commission was required by law to consider prior discipline in evaluating the propriety of an employee’s discharge. For instance, the Commission was required to consider an employee’s prior disciplinary track in affirmative attendance cases because most collective bargaining agreements required the consideration of prior discipline when evaluating whether discharge was appropriate. Therefore, the change to the rule was necessary to comport to existing law.

XIV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held Friday, April 19, 2013 at 10:30 a.m. in the Commission’s Chicago office.

XV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER CUMMINGS, AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 11:00 A.M.